IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 73 of 2001
(Old No. 291/2000)

U.P. Financial Corporation …….. Revisionist

Versus

Smt. Chandrakanta Kalra & others ……. Respondents

Mr. Naresh Pant, learned counsel for the petitioner.
Mr. Alok Singh, learned counsel for respondent No. 3.

Hon'ble P.C. Verma, A.C.J.

This revision is directed against the judgment and decree passed by the court below.

Heard Mr. Naresh Pant, learned counsel for the petitioner and Mr. Alok Singh, learned counsel for the respondent No. 3.

The plaintiff filed O.S. No. 127 of 1998 in the Court of Civil Judge (S/D) Dehradun, which was decreed for recovery of Rs. 8,26,750/- alongwith 18 % interest per annum thereon vide judgment and decree dated 29.3.2000. Vide order dated 4.5.98 learned Civil Judge passed an order calling the defendants to furnish the security of the amount claimed in the plaint and further directing that property in dispute herein would be attached before the judgment in the event of non-furnishing of security. This order for the attachment before judgment dated 4.5.98 was made absolute keeping in force till the satisfaction of the decree by judgment and decree dated 29.3.2000. It is revealed that respondent No. 4 took loan somewhere in the year 1995 from UPFC. Late Shri Narendra Kumar Kalra being the director of respondent No. 4 also stood guarantor for and on behalf of respondent No. 4 keeping the property in dispute under simple mortgage with UPFC. During the execution of the decree, revisionist filed an objection under Order 21 Rule 58 read with Order 38 Rule 8 CPC challenging the attachment saying UPFC can proceed U/s 29 of State Financial Corporation Act.

Having regard to the facts and circumstances of the case, I direct the lower court to implead U.P.F.C. as party in the execution

proceedings and charge of U.P.F.C. as ordered by the lower court shall remain first. Minimum price of the property in auction during the course of execution shall not be fixed below the total loan of both the creditors. Offerers with U.P.F.C. are also permitted to participate in the execution proceeding.

With the aforesaid observations, the writ petition is disposed of finally.

(P.C.Verma, A.C.J.)

Dt. 29.06.2004.
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